Orleans & Texas Ry. Co., 70 Miss. 563, 12 So. 586. In the principal case the question whether the courtesy had become a duty, owing to exceptional circumstances, should have been left to the jury. *Citizens Street Ry. Co.* v. *Shepherd*, 29 Ind. App. 412, 62 N. E. 300. If it had been answered in the affirmative, the carrier would have been liable for failing to perform such duty with due care.

CARRIERS — WHO ARE COMMON CARRIERS — EXCLUSIVE SERVICE TO COKE PLANT. — The defendant, an independent company organized under a general railroad act, operated a network of switch tracks wholly within the premises of a coke corporation. Its sole business consisted in shifting cars for the coke corporation between the plant and two connecting belt lines, such cars coming from and going to places in different states. The plaintiff seeks damages for injuries received in the defendant's employ, charging the latter with violation of the federal Safety Appliance Act. *Held*, that the defendant is a common carrier engaged in interstate commerce and liable for violation of the federal Safety Appliance Act. *Kenna* v. *Calumet, H. & S. E. R. Co.*, 120 N. E. 259 (Ill.).

A common carrier is defined as one who undertakes for hire to transport from place to place the goods of such as choose to employ him. *Illinois Central R. R.* v. *Frankenberg*, 54 Ill. 88; *Lloyd* v. *Haugh, etc. Storage, etc. Co.*, 223 Pa. 148, 72 Atl. 516. See 1 HUTCHINSON, CARRIERS, 3 ed., § 47; STORY, BAILMENTS, 7 ed., § 495. Whether the one charged as a common carrier is within this definition is a question of fact for the jury. *Schloss* v. *Wood*, 11 Colo. 287, 17 Pac. 910; *Collier* v. *Langan, etc. Storage, etc. Co.*, 147 Mo. App. 700, 127 S. W. 435; *Avinger* v. *South Carolina R. R. Co.*, 29 S. C. 265, 7 S. E. 493; *The Tap Line Case*, 23 I. C. C. 277. In the principal case, it does not appear that the defendant held itself out for purposes of general transportation. Its only business consisted in switching cars for the coke corporation between the plant and the belt railroads. If this system of internal trackage had been operated by the coke corporation itself, such system, as the court admits, would have constituted a mere plant facility. *Wade* v. *Lutcher & Moore Cypress Lumber Co.*, 20 C. C. A. 515, 74 Fed. 517; *Taenzer & Co.* v. *Chicago, R. I. & P. R. Co.*, 95 C. C. A. 436, 170 Fed. 240; *General Electric Co.* v. *N. Y. C. & H. R. R. Co.*, 14 I. C. C. 237. The fact that the system was operated by an independent corporation does not alter its character. *Crane Iron Works* v. *U. S.*, 1 U. S. Com. Ct. 453, 209 Fed. 238; *In re Muncie & Western R. Co.*, 30 I. C. C. 434. Furthermore, the railroad was not even a public utility, for since its lines were wholly within the premises of the coke corporation it was not accessible to the general public. *Cf. Matter of the Split Rock Cable Road*, 128 N. Y. 408, 28 N. E. 506; *Weidenfeld* v. *Sugar Run R. Co.*, 48 Fed. 615 (U. S. C. C., Pa.). Nor could organization under the general railroad act clothe the business with a public interest; the facts alone could give it that character. *Munn* v. *Illinois*, 94 U. S. 113; *People* v. *Budd*, 117 N. Y. 1, 22 N. E. 670; *Brass* v. *North Dakota*, 153 U. S. 391. Unless by accepting the benefits of the act, the defendant was estopped to show that it was not a common carrier, the decision seems wrong. See *Turnpike Co.* v. *News Co.*, 43 N. J. L. 381; *Chicago, M. & St. P. R. Co.* v. *Ackley*, 94 U. S. 179.

CONFLICT OF LAWS — WILLS — EQUITABLE ELECTION. — Testatrix died domiciled in England, having devised realty in Paraguay upon trust for charity. By the law of Paraguay this devise was valid only as to one-fifth, four-fifths being the legal portion of the obligatory heirs. These heirs were also legatees of property situated in England. Though under the Paraguayan law the obligatory heirs took both under and against the will and were not required to elect, yet, *held*, that they must elect. *In re Ogilvie*, [1918] 1 Ch. 492.

When A makes B, his heir, and C legatees under his will, and the legacy to